

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 13-59673

WEAAM NOCHA,

Chapter 11

Debtor.

Judge Thomas J. Tucker

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ORDER REQUIRING DEBTOR TO AMEND DISCLOSURE STATEMENT

On April 30, 2014, Debtor filed a plan and disclosure statement, in a document entitled “2nd Amended Combined Plan and Disclosure Statement of Weaam Nocha” (Docket # 94). The Court cannot yet grant preliminary approval of the disclosure statement contained within this document (“Disclosure Statement”). The Court notes the following problems, which Debtor must correct.

First, Debtor defines the “Effective Date” of the Plan inconsistently. On the one hand, Debtor defines “Effective Date” in the definitions section on page 18 of the Plan as, in substance, the date on which the confirmation order becomes final and no longer appealable. On the other hand, Debtor appears to define the Effective Date in Article X.a on page 35 of the Plan as the 11th day after entry of the confirmation order. Debtor must correct this inconsistency.

Second, Debtor repeatedly uses the word “Property” as if it is a defined term, but this word is not listed in the definitions in Article I of the Plan, nor is it otherwise defined in the Plan or Disclosure Statement. (*See, e.g.*, the treatment of the Class II claim of Huntington Bank on page 23 of the Plan (stating that the fair market value of the “Property” is \$155,000.00 and that “Debtor granted Huntington’s predecessor in interest (Fidelity Bank) a mortgage on the Property”) and page 26 (stating the treatment of Huntington Bank in Class 2.) On page 2 of the

Disclosure Statement, Debtor defines the 12,000 square foot building located at 7451-7461 West Eight Mile, Detroit, as the “Building,” “Nocha Building” or “Detroit Building.” If Debtor means the Building when it uses the word “Property,” instead of using “Property,” Debtor must use one of the three defined terms for the Building.

Third, on pages 20-21 and page 25 of the Plan, Debtor proposes to pay administrative claims “**within ten (10) days of confirmation**, unless administrative claimants agreed to different treatment. . . .” (Emphasis added.) It is unclear what Debtor means here by “confirmation.” Debtor must clarify this by stating either that administrative claims will be paid in full within 10 days after entry of an order confirming the Plan, or within 10 days after the Effective Date.

Fourth, on page 23 of the Plan, Debtor must state when the payments to Huntington Bank will begin.

Fifth, Debtor must change “Class IV” to “Class III” in the two places it occurs on pages 23-24 of the Plan, where Debtor is describing the treatment of the Class III claims of the general unsecured creditors.

Sixth, Debtor must state in the first sentence of the first full paragraph on page 25, in Section IV.B of the Plan, regarding the treatment of administrative claims, that such claims will be paid “in full.” And Debtor must delete the following language in Section IV.B of the Plan: “For purposes of the Plan, it should be assumed that administrative claimants would agree to differing treatment with the Debtor.”

Seventh, Debtor uses roman numerals to designate the different classes in Section IV.A of the Plan on pages 22 through 24. However, in the chart in Section IV.B of the Plan on pages 25

through 27, Debtor uses numbers. Debtor must correct this inconsistency.

Eighth, the chart in Section IV.B of the Plan on page 27 treats the priority claims of the Internal Revenue Service and the State of Michigan as being in "Class 3." "[P]riority tax claims . . . are not supposed to be classified in a Chapter 11 plan for voting or other purposes." *In re Northwest Timberline Enterprises, Inc.*, 348 B.R. 412, 422 (Bankr. N.D. Tex. 2006)(citing 11 U.S.C. § 1123(a)(1)). Debtor has treated the priority tax claims of the Internal Revenue Service and the State of Michigan under "Group 3" on page 21 of the Plan. Debtor must make the chart on page 27 consistent with that. And Debtor must designate the class of general unsecured creditors as either Class 3 or Class III, depending on whether Debtor chooses to designate its classes using roman numerals or numbers.

Accordingly,

IT IS ORDERED that no later than **May 6, 2014**, Debtor must file an amended combined plan and disclosure statement that is consistent with this Order.

IT IS FURTHER ORDERED that no later than **May 6, 2014**, Debtor also must file a redlined version of the amended combined plan and disclosure statement, showing the changes Debtor has made to the "2nd Amended Combined Plan and Disclosure Statement of Weaam Nocha" (Docket # 94), filed April 30, 2014.

Signed on May 2, 2014

/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge